

# HOUSE BILL No. 1707

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-50-2-8.

**Synopsis:** Habitual offenders. Provides that, for purposes of the law concerning habitual offenders: (1) a person has accumulated two prior unrelated felony convictions after a person has been convicted of a felony committed after the person was convicted of committing a prior unrelated felony; and (2) a person is considered to have been convicted of a Class D felony even if a court enters judgment of the conviction as a Class A misdemeanor.

**Effective:** July 1, 1999.

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**Mellinger, Lawson L, Friend**

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January 26, 1999, read first time and referred to Committee on Courts and Criminal Code.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## HOUSE BILL No. 1707

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 35-50-2-8 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The state may  
3       seek to have a person sentenced as a habitual offender for any felony  
4       by alleging, on a page separate from the rest of the charging instrument,  
5       that the person has accumulated two (2) prior unrelated felony  
6       convictions.

7       (b) After a person has been convicted ~~and sentenced~~ for a felony  
8       committed after ~~sentencing the person was convicted~~ for committing  
9       a prior unrelated felony, ~~conviction~~, the person has accumulated two  
10      (2) prior unrelated felony convictions. **For purposes of this**  
11      **subsection, a person is considered to have been convicted of a Class**  
12      **D felony even if a court enters judgment of the conviction as a**  
13      **Class A misdemeanor under section 7(b) of this chapter.** However,  
14      a conviction does not count for purposes of this subsection, if:

15           (1) it has been set aside; or

16           (2) it is one for which the person has been pardoned.

17           (c) If the person was convicted of the felony in a jury trial, the jury

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1 shall reconvene for the sentencing hearing. If the trial was to the court  
2 or the judgment was entered on a guilty plea, the court alone shall  
3 conduct the sentencing hearing under IC 35-38-1-3.

4 (d) A person is a habitual offender if the jury (if the hearing is by  
5 jury) or the court (if the hearing is to the court alone) finds that the  
6 state has proved beyond a reasonable doubt that the person had  
7 accumulated two (2) prior unrelated felony convictions.

8 (e) The court shall sentence a person found to be a habitual criminal  
9 to an additional fixed term that is not less than the presumptive  
10 sentence for the underlying offense nor more than three (3) times the  
11 presumptive sentence for the underlying offense. However, the  
12 additional sentence may not exceed thirty (30) years.

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